

AG Contract No.: KR93-0687TRN  
ADOT ECS File No.: JPA 93-62  
**Amendment 1** to H 0135 01C (old)  
Project: Interstate 10 (I-10) 010-C-(003)  
TRACS: H 5328 01C  
Section: Elliot Road - Ray Road

96285

**INTERGOVERNMENTAL AGREEMENT**  
**LANDSCAPE MAINTENANCE**  
**BETWEEN**  
**THE STATE OF ARIZONA**  
**AND**  
**THE CITY OF PHOENIX**

**THIS AGREEMENT Amendment** to JPA 93-62, AG Contract No.: KR93-0687TRN, filed 14 September, 1993, with the Secretary of State under No. 18005, is entered into 10 April, 2001, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PHOENIX, acting by and through its CITY MANAGER, ( the "City" ).

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Chapter II, Section 2.i. of the City Charter to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. It is to the mutual advantage of the State and the City to amend the referenced agreement, to incorporate the addition of new landscape plantings and maintenance responsibilities to the existing Landscape Maintenance Agreement (LMA), and incorporate the refurbishment of the existing irrigation system and new plantings on Interstate 10 (I-10) at the following locations:

On the west side of Interstate 10,: 1) Include new landscape and maintenance responsibilities (from milepost 157.95 to milepost 158.52); 2) Add new plantings and the refurbishment of the existing irrigation system to the existing agreement 158.52 to milepost 159.06; and 3) Include new landscape and maintenance responsibilities to the existing agreement (from milepost 159.06 to milepost 159.91, (including the portion of west and east bound Ray Road west of I-10, as designated in the attached Maintenance Exhibit. The City's new limits of jurisdiction within this amended agreement are from milepost 157. 95 to milepost 159. 91.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO 18005  
Filed with the Secretary of State  
Date Filed: 04/10/01  
Betsy Boyles  
Secretary of State

By Vicky J. Greenwald

#01

## **II. SCOPE OF WORK**

1. The State will prepare to State standards design plans for the landscaping and irrigation construction project and submit them to the City for concurrence.

2. After City concurrence of the plans, the project will be constructed by the State, at State's expense. The State will use color coded irrigation pipe to indicate the presence of reclaimed water, as required by law.

3. The City will provide potable or reclaimed water mains up to or within the State's right of way at the City's expense. Reclaimed water shall be Class A, or better, as defined by Arizona Administrative Code (18 A.A.C. 11, Article 3) proposed May 5, 2000.

4. The City shall furnish and install necessary water services from water mains to the designated locations within the right of way at the State's expense. The City will authorize and pay or waive any water development fees.

5. The City shall furnish all potable or reclaimed water for the landscape project, and make its best efforts to provide the water at the design pressures stated in the plans, during installation, construction phase, and all water thereafter necessary to properly maintain the landscape, at City's expense.

6. Should the City elect to deliver treated reclaimed water instead of potable water, the City shall furnish and maintain any additional equipment and electrical power required by the State to maintain design water pressures, and any equipment deemed necessary by the State to effectively interface with the State's existing irrigation system, all at the City's expense.

7. After construction, the State will maintain the landscaping, irrigation system, and pay for irrigation system electric, all generally within the Control of Access, as designated in the attached Maintenance Exhibit.

8. At the conclusion of the contractor maintenance and warranty period, referred to in the contract as Landscaping Establishment, the City shall maintain the irrigation system generally outside the Control of Access as designated on the Maintenance Exhibit, including all testing, adjusting, repairing and operation of the irrigation system. At this time, the City shall also assume responsibility of paying for electrical power necessary to operate the City's irrigation controllers and any booster pumps.

9. The City hereby agrees to maintain the landscaping in areas designated on the Maintenance Exhibit. Landscape maintenance shall consist of the care of all landscaping in accordance with accepted horticultural practices, keeping all areas free of weeds, undesirable grasses and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping.

10. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control shall meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual."

## **III. MISCELLANEOUS PROVISIONS**

1. This agreement shall become effective upon filing with the Secretary of State.

2. The terms, conditions and provisions of this agreement shall remain in full force and effect for a period of five (5) years from the effective date, unless this agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless either party shall give notice in writing to the other not less than one (1) month nor more than three (3) months prior to the initial or renewed expiration date. Further, this agreement may be terminated by either party at any time upon sixty (60) days written notice. It is understood and agreed that, in the event this agreement is terminated by the City, the State shall in no way be obligated to maintain said landscaping.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereby agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17th Avenue, Mail Drop 616E  
Phoenix, AZ. 85007

City of Phoenix  
Street Transportation Department  
200 West Washington, 5<sup>th</sup> Floor  
Phoenix, AZ. 85003-1611

7. Attached hereto is the written determination of each party's legal counsel the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**CITY OF PHOENIX**, a Municipal  
Corporation, Frank Fairbanks  
City Manager

**STATE OF ARIZONA**  
Department of Transportation

By Thomas E. Callow  
THOMAS E. CALLOW, P.E.  
Street Transportation Director

By Catherine J. Hegel  
CATHERINE J. HEGEL  
Contract Administrator

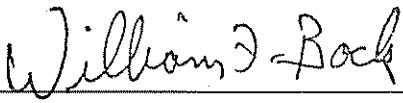
ATTEST

By Vicky Miel  
VICKY MIEL  
City Clerk

APPROVAL OF THE CITY OF PHOENIX ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF PHOENIX and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

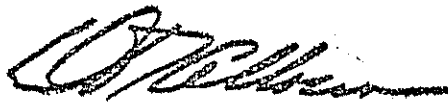
  
\_\_\_\_\_  
ACTING  
City Attorney  
DLB

JPA 93-62  
AMENDMENT

RESOLUTION

BE IT RESOLVED on this 8th day of January, 2001, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the DEPARTMENT OF TRANSPORTATION, acting by and through the Intermodal Transportation Division, to enter into an agreement with the CITY OF PHOENIX for the purpose of defining amended responsibilities for landscaping certain areas within the State's right of way on Interstate 10 (I-10), between Broadway Road and Elliot Road.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contractor Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', written over a horizontal line.

DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group

for MARY E. PETERS, Director